

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

XIAOYU CHEN,

Plaintiff,

v.

BELLEVUE SCHOOL DISTRICT et al.,

Defendant.

CASE NO. 3:24-cv-05616-BHS

ORDER AFFIRMING DENAIL OF  
RECUSAL (DKT. NO. 12)

This matter comes before the Court on Judge Settle’s denial (Dkt. No. 12) of Plaintiffs’ motion for recusal (Dkt. No. 9). Local Civil Rule 3(f) provides that whenever a judge in this District declines to voluntarily recuse themselves from a case following a party’s motion to recuse pursuant to 28 U.S.C. § 144 or 28 U.S.C. § 455, “he or she will direct the clerk to refer the motion to the chief judge.” Accordingly, this Court now reviews Judge Settle’s decision not to recuse.


Motions for recusal are governed by 28 U.S.C. § 144 and 28 U.S.C. § 455. Recusal is required if a judge’s impartiality might reasonably be questioned or if the judge harbors personal

1 bias or prejudice against a party. 28 U.S.C. § 455(a), (b)(1). Such bias or prejudice must derive  
2 from an extrajudicial source. *Agha-Khan v. Mortgage Elec. Registration Sys., Inc.*, 2022 WL  
3 501564, at \*1 (9th Cir. Feb. 18, 2022); *Mayes v. Leipziger*, 729 F.2d 605, 607 (9th Cir.  
4 1984). Under both 28 U.S.C. § 144 and 28 U.S.C. § 455, recusal of a federal judge is  
5 appropriate if “a reasonable person with knowledge of all the facts would conclude that the  
6 judge’s impartiality might reasonably be questioned.” *Yagman v. Republic Ins.*, 987 F.2d 622,  
7 626 (9th Cir. 1993). This is an objective inquiry concerned with whether there is the appearance  
8 of bias, not whether there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir.  
9 1992).

10 Although Plaintiffs’ motion for recusal is not a picture of clarity, it appears to allege that  
11 Judge Settle’s clerks are being paid by Evergreen Trails attorneys to dismiss cases “before Judge  
12 Settle ever sees the case or makes a ruling.” (Dkt. No. 9 at 1.) As Judge Settle noted, is not clear  
13 who or what “Evergreen Trails” is, as the entity is not a party to the case and the name does not  
14 appear in the complaint. (See Dkt. No. 1.) In denying the motion to voluntarily recuse, Judge  
15 Settle concluded that “[t]he allegation that ‘Evergreen Trails’ is paying the Court’s clerks is  
16 patently false.” (Dkt. No. 12 at 2.) Accordingly, the court declined to recuse “in response to  
17 false and baseless allegations.” (*Id.* at 3.) The Court agrees that a reasonable person would not  
18 harbor doubts about Judge Settle’s impartiality based on Plaintiff’s unsubstantiated account of an  
19 unknown entity allegedly paying off judicial clerks. Plaintiff has failed to put forth any facts in  
20 support of these serious allegations.

21 Accordingly, the Court AFFIRMS Judge Settle’s denial (Dkt. No. 12) of Plaintiff’s  
22 motion for recusal (Dkt. No. 9).

1 Dated this 11th day of October, 2024.

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6 David G. Estudillo  
7 United States District Judge  
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